

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

REGION 4  
245 WEST BROADWAY, SUITE 350  
LONG BEACH, CA 90802  
(310) 590-4868



March 6, 1992

Mr. Laurence S. Wilken  
Solar Turbines, Incorporated  
2200 Pacific Highway  
San Diego, California 92138-5376

Dear Mr. Wilken:

CORRECTIVE ACTION ORDER, DOCKET NO. DO91/92-4-001

The Department of Toxic Substances Control (Department) has reviewed changes you have requested concerning the Department's Stipulation and Order. The Department has incorporated some of the changes. In addition, the previous Stipulation and Order language was revised on February 17, 1992 by our legal office. We anticipate that this new language has addressed your concerns.

Enclosed please find this revised Stipulation and Order for your signature. We ask that you sign and forward the original to my attention at the above address.

If you have any questions, please contact me at  
(310) 590-5917.

Sincerely,

A handwritten signature in cursive script that reads 'Maria G. Durand'.

Maria G. Durand  
Unit Chief  
Surveillance and Enforcement Branch

Enclosure

Certified Mail  
P 444 792 385  
Return Receipt Requested

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of: ) Docket HWCA DO91/92-4-001  
)  
)  
Solar Turbines, Incorporated ) STIPULATION AND ORDER  
(Harbor Drive Plant) )  
2200 Pacific Highway ) Health and Safety Code  
San Diego, CA 92138-5376 ) Section 25187  
)  
Respondent. )

The State Department of Toxic Substances Control (Department) and Solar Turbines, Incorporated (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order (Order) issued by the Department on July 8, 1991. (Attached as Exhibit 1.)

2. Respondent does not admit the allegations made in the Order and Complaint, except as follows: Respondent admits the allegations made in the Order and/or Complaint for the purposes of any subsequent action for an alleged repeat or continuing violation directly related to a specific allegation made in the Order and/or Complaint or where the violation or noncompliance shows a repeating or recurring pattern brought pursuant to the Hazardous Waste Control Act, Health and Safety Code section 25100 et seq., within five years of the date of the violations alleged in the Order and/or Complaint.

3. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.

4. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

5. Respondent waives any right to a hearing in this matter.

6. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

## SCHEDULE FOR COMPLIANCE

7. Respondent shall comply with the following:

7.1. Respondent shall correct the alleged violations as specified in paragraph 3 of the Order and Complaint attached to this Stipulation and Order.

7.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Mr. John A. Hinton, P.E.  
Regional Administrator  
Department of Toxic Substances Control  
245 West Broadway, Suite 350  
Long Beach, California 90802

7.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Regional Administrator, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

1       7.4. Department Review and Approval: If the Department  
2 determines that any report, plan, schedule, or other document  
3 submitted for approval pursuant to this Order fails to comply with the  
4 Order or fails to protect public health or safety or the environment,  
5 the Department may:

6           a. Modify the document as deemed necessary and approve the  
7 document as modified or

8           b. Return the document to Respondent with recommended  
9 changes and a date by which Respondent must submit to the Department a  
10 revised document incorporating the recommended changes.

11       7.5. Compliance with Applicable Laws: Respondent shall carry out  
12 this Order in compliance with all local, State, and Federal  
13 requirements, including but not limited to requirements to obtain  
14 permits and to assure worker safety.

15       7.6. Endangerment during Implementation: In the event that the  
16 Department determines that any circumstances or activity (whether or  
17 not pursued in compliance with this Order) are creating an imminent or  
18 substantial endangerment to the health or welfare of people on the  
19 site or in the surrounding area or to the environment, the Department  
20 may order Respondent to stop further implementation of this Order for  
21 such period of time as needed to abate the endangerment. Any deadline  
22 in this Order directly affected by a Stop Work Order under this  
23 section shall be extended for the term of such Stop Work Order.

24       7.7. Liability: Nothing in this Order shall constitute or be  
25 construed as a satisfaction or release from liability for any  
26 conditions or claims arising as a result of past, current, or future  
27 operations of Respondent. Notwithstanding compliance with the terms  
28

1 of this Order, Respondent may be required to take further actions as  
2 are necessary to protect public health or welfare or the environment.

3 7.8. Site Access: Access to the Site shall be provided at all  
4 reasonable times to employees, contractors, and consultants of the  
5 Department, and any agency having jurisdiction. Nothing in this Order  
6 is intended to limit in any way the right of entry or inspection that  
7 any agency may otherwise have by operation of any law. The Department  
8 and its authorized representatives may enter and move freely about all  
9 property at the Site at all reasonable times for purposes including  
10 but not limited to: inspecting records, operating logs, and contracts  
11 relating to the Site; reviewing the progress of Respondent in carrying  
12 out the terms of this Order; and conducting such tests as the  
13 Department may deem necessary. Respondent shall permit such persons  
14 to inspect and copy all records, documents, and other writings,  
15 including all sampling and monitoring data, in any way pertaining to  
16 work undertaken pursuant to this Order.

17 7.9. Sampling, Data and Document Availability: Respondent shall  
18 permit the Department and its authorized representatives to inspect  
19 and copy all sampling, testing, monitoring, and other data generated  
20 by Respondent or on Respondent's behalf in any way pertaining to work  
21 undertaken pursuant to this Order. Respondent shall allow the  
22 Department and its authorized representatives to take duplicates of  
23 any samples collected by Respondent pursuant to this Order.  
24 Respondent shall maintain a central depository of the data, reports,  
25 and other documents prepared pursuant to this Order. All such data,  
26 reports, and other documents shall be preserved by Respondent for a  
27 minimum of six years after the conclusion of all activities under this

1 Order. If the Department requests that some or all of these documents  
2 be preserved for a longer period of time, Respondent shall either  
3 comply with that request, deliver the documents to the Department, or  
4 permit the Department to copy the documents prior to destruction.  
5 Respondent shall notify the Department in writing at least six months  
6 prior to destroying any documents prepared pursuant to this Order.

7 7.10. Government Liabilities: The State of California shall not  
8 be liable for injuries or damages to persons or property resulting  
9 from acts or omissions by Respondent or related parties specified in  
10 paragraph 7.17 in carrying out activities pursuant to this Order, nor  
11 shall the State of California be held as a party to any contract  
12 entered into by Respondent or its agents in carrying out activities  
13 pursuant to this Order.

14 7.11. Additional Enforcement Actions: By agreeing to this  
15 Stipulation and Order, the Department does not waive the right to take  
16 further enforcement actions.

17 7.12. Incorporation of Plans and Reports: All plans, schedules,  
18 and reports that require Department approval and are submitted by  
19 Respondent pursuant to this Order are incorporated in this Order upon  
20 approval by the Department.

21 7.13. Extension Requests: If Respondent is unable to perform any  
22 activity or submit any document within the time required under this  
23 Order, the Respondent may, prior to expiration of the time, request an  
24 extension of time in writing. The extension request shall include a  
25 justification for the delay.

7.14. Extension Approval: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

7.15. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

7.16. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Order.

7.17. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

**PENALTY**

8. Respondent shall pay the Department a penalty of \$28,000.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Within 30 days of the date this Order is fully executed Respondent shall deliver the penalty payment to:

1 Department of Toxic Substances Control  
2 Accounting Office  
3 400 P Street, 4th Floor  
4 P.O. Box 806  
5 Sacramento, CA 95812-0806

6 A photocopy of the check shall be sent to:

7 Paula Rasmussen, Chief  
8 Surveillance and Enforcement Branch  
9 Department of Toxic Substances Control  
10 245 West Broadway, Suite 350  
11 Long Beach, CA 90802

12 Toxics Legal Office  
13 Department of Toxic Substances Control  
14 400 P Street, 4th Floor  
15 P.O. Box 806  
16 Sacramento, CA 95812-0806

17 9. Each party shall bear its own cost and attorney's fees in  
18 this matter.  
19  
20  
21  
22

23 Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Respondent's  
Representative

\_\_\_\_\_  
Typed or Printed Name and Title of  
Respondent's Representative

24 Dated: \_\_\_\_\_

\_\_\_\_\_  
Department of Toxic Substances  
Control



1 bcc: Mr. Don Johnson, Chief  
2 Surveillance and Enforcement Branch  
3 Department of Toxic Substances Control  
4 P.O. Box 806  
5 Sacramento, California 95812-0806  
6  
7 Mr. Val Siebal  
8 Regional Administrator  
9 Region 1  
10 Department of Toxic Substances Control  
11 10151 Croydon Way  
12 Sacramento, California 95827  
13  
14 Mr. Howard Hatayama  
15 Regional Administrator  
16 Region 2  
17 Department of Toxic Substances Control  
18 700 Heinz Avenue  
19 Berkeley, California 94710  
20  
21 Mr. Dennis Dickerson *W.H.*  
22 Regional Administrator  
23 Region 3  
24 Department of Toxic Substances Control  
25 1405 San Fernando Boulevard  
26 Burbank, California 91504  
27  
28 Mr. Frank Laguna  
Regional Coordinator  
U. S. Environmental Protection Agency  
Region IX  
75 Hawthorne Street, Mail Stop H-4-1  
San Francisco, California 94105  
  
Ms. Theodora Berger  
Assistant Attorney General  
Office of the Attorney General  
300 South Spring Street, Suite 500  
Los Angeles, California 90013  
  
Ms. Mary Avastu  
San Diego County  
Department of Environmental Protection  
Hazardous Materials Management  
1255 Imperial Avenue  
San Diego, California 92101

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1 bcc: Ms. Mary Locke  
2 Chief Investigator  
3 Office of Local Enforcement  
4 Department of Toxic Substances Control  
5 P.O. Box 806  
6 Sacramento, California 95812-0806

7 Mr. James R. Cutright  
8 Toxics Legal Office  
9 Department of Toxic Substances Control  
10 P.O. Box 806  
11 Sacramento, California 95812-0806

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